



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

William J. Kowalski, DC

Respondent Name

New Hampshire Insurance Company

MFDR Tracking Number

M4-14-2429-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

April 8, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This is a designated doctor examination asked to provide the following

- 1) MMI
- 2) Impairment
- 3) Return to Work Issues

examination(s) and report provided in a timely manner – coding done according to TDI work comp guidelines codes taken from your seminar notes.

Billing sent x2 Carrier ignored second billing EOB provided for first billing only

Should be paid per TDI Work Comp Guidelines"

Amount in Dispute: \$1050.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on April 16, 2014. Per 28 Texas Administrative Code §133.307(d)(1), "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

Response Submitted by: NA

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 15, 2014	Designated Doctor's Exam to Determine Maximum Medical Improvement, Impairment Rating, and ability to Return to Work	\$1050.00	\$350.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 explains how designated doctor exams are billed and reimbursed.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 16 – Claim/service lacks information or has submission/billing error(s) which is needed for adjudication
 - 4 – The procedure code is inconsistent with the modifier used or a required modifier is missing.

Issues

1. Did the requestor lack information, or have submission or billing errors for Maximum Medical Improvement?
2. Did the requestor use the correct modifiers when billing for Impairment Rating?
3. Did the requestor lack information, or have submission or billing errors for assessment of Return to Work?
4. Is the requestor entitled to reimbursement?

Findings

1. Per 28 Texas Administrative Code §134.204 (j)(1), "The total MAR for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR. The MMI/IR examination shall include: (A) the examination; (B) consultation with the injured employee; (C) review of the records and films; (D) the preparation and submission of reports (including the narrative report, and responding to the need for further clarification, explanation, or reconsideration), calculation tables, figures, and worksheets." The requestor's bill for Maximum Medical Improvement includes the examination, consultation with the injured employee, review of records and films, and a copy of the narrative report and DWC069 form.

Per 28 Texas Administrative Code §134.204 (j)(3)(C), "An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The requestor correctly used CPT Code 99456 to bill for Maximum Medical Improvement, with a charge of \$350.00.

Per 28 Texas Administrative Code §134.204 (i)(1)(B), "Attainment of maximum medical improvement shall be billed and reimbursed in accordance with subsection (j) of this section, and the use of the additional modifier 'W5' is the first modifier to be applied when performed by a designated doctor". The requestor correctly used "W5" as the first modifier for CPT Code 99456 to bill for Maximum Medical Improvement.

Per 28 Texas Administrative Code §134.204 (j)(4)(C)(iii), "If the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with modifier 'WP.' Reimbursement shall be 100 percent of the total MAR." The requestor correctly used modifier "WP" for CPT Code 99456 to bill for Maximum Medical Improvement.

The Division finds that the requestor did not lack information, or have submission or billing errors for the billed code of 99456 W5 WP for Maximum Medical Improvement.

2. Per 28 Texas Administrative Code §134.204 (i)(1)(A), "Impairment caused by the compensable injury shall be billed and reimbursed in accordance with subsection (j) of this section, and the use of the additional modifier 'W5' is the first modifier to be applied when performed by a designated doctor". The requestor correctly used modifier "W5" for CPT Code 99456 to bill for Impairment Rating.

Per 28 Texas Administrative Code §134.204 (j)(4)(C), "(iii) If the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with modifier 'WP.' Reimbursement shall be 100 percent of the total MAR. (iv) If, in accordance with §130.1 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment), the examining doctor performs the MMI examination and assigns the IR, but does not perform the range of motion, sensory, or strength testing of the musculoskeletal body area(s), then the examining doctor shall bill using the appropriate MMI CPT code with CPT modifier '26.' Reimbursement shall be 80 percent of the total MAR." The requestor did not include either modifier "WP" or "26" to indicate if he performed the testing for Impairment Rating. **Therefore, the requestor did not use all of the correct modifiers when billing for Impairment Rating.**

3. Per 28 Texas Administrative Code §134.204 (k), "The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' The requestor correctly used CPT Code 99456 and modifier "RE" to bill for a Return to Work

evaluation.

Per 28 Texas Administrative Code §134.204 (i)(1)(E), “Ability of the employee to return to work shall be billed and reimbursed in accordance with subsection (k) of this section, with the use of the additional modifier ‘W8’”. The requestor correctly used modifier “W8” with CPT Code 99456 to bill for a Return to Work evaluation.

28 Texas Administrative Code §134.204 (n) provides a list of modifiers acceptable for use when billing Division-specific CPT Codes found in Texas Administrative Code §134.204. The modifier “52” is not included in this list, so it is not a recognized modifier for this procedure. **Therefore, the requestor had a billing error for assessment of Return to Work.**

4. Review of the submitted documentation finds the respondent is entitled to reimbursement of \$350.00 for Maximum Medical Improvement, but is not entitled to reimbursement for Impairment Rating or Return to Work assessments.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$350.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$350.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

December 11, 2014
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.